

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

CAREY D. MALASARTE,)
Plaintiff,)
vs.)
UNITED STATES OF AMERICA,)
Defendant.)
CIVIL CASE NO. 02-082-DRH

REPORT AND RECOMMENDATION

FRAZIER, Magistrate Judge:

This matter is before the Court on a *sua sponte* recommendation of dismissal for want of prosecution. Plaintiff filed this action while he was confined in prison. He was released on November 8, 2002 (Doc. No. 11). Early in these proceedings, plaintiff kept the Clerk informed regarding his whereabouts, as he is required to do (Doc. Nos. 10, 11). Local Rule 31. On December 12, 2002, the defendant filed a Rule 12 motion to dismiss (Doc. No. 12). Plaintiff did not file a response. Mail sent to plaintiff at his last known address was returned with a note indicating that he no longer lived at that address and might be living in California (Doc. No. 15). Over two weeks have passed since that note was received. Plaintiff has not provided the Clerk with his current address and has not made recent payments towards his filing fee. Under these circumstances, the only reasonable inference is that plaintiff has no interest in prosecuting this action.

IT IS RECOMMENDED that this action be DISMISSED for want of prosecution

SUBMITTED: 2/26/03

PHILIP M. FRAZIER
UNITED STATES MAGISTRATE JUDGE

NOTICE

PURSUANT to Title 28 U.S.C. 636(b) and Rule 73.1(b) of the Local Rules of Practice in the United States District Court for the Southern District of Illinois, any party may serve and file written OBJECTIONS to this Report and Recommendation/ Proposed Findings of Fact and Conclusions of Law within ten days of service.

Please note: You are not to file an appeal as to the Report and Recommendation/Proposed Findings of Fact and Conclusions of Law. At this point, it is appropriate to file **OBJECTIONS**, if any, to the Report and Recommendation/ Proposed Findings of Fact and Conclusions of Law. An appeal is inappropriate until after the District Judge issues an Order either affirming or reversing the Report and Recommendation/ Proposed Findings of Fact and Conclusions of Law of the U.S. Magistrate Judge.

Failure to file such OBJECTIONS shall result in a waiver of the right to appeal all issues, both factual and legal, which are addressed in the the Report and Recommendation/Proposed Findings of Fact and Conclusions of Law. *Video Views, Inc. v Studio 21, Ltd. and Joseph Sclafani*, 797 F.2d 538 (7th Cir. 1986).

You should mail your OBJECTIONS to the Clerk, U.S. District Court at the address indicated below:

301 West Main St.
Benton IL 62812

750 Missouri Ave.
P.O. Box 249
East St. Louis, IL 62202